

BOARD OF SELECTMEN

October 9, 2007

Chairman McArdle called the meeting to order at 7:30PM. Board members present in addition to Chairman McArdle were Richard Gandt, Steve Clark, Boyd Jackson, and Dick Carlson. Of the Selectmen's staff, Town Administrator Virginia Wilder, and Board Secretary Donna Rich, was in attendance. Other persons present were Jane Schraffa and Evleyn Hammond of the Topsfield Cable. Also present were Brendan Lewis of the Tri-Town Transcript, Faye Raynard of the Village Reporter, Laura O'Connor, Walter Harmer, Chairman of Conservation Commission, Lana Spillman, Conservation Commission Administrator, Joe Geller, Chairman of Rail Trail Committee along with other members: Nancy Luther, Gregg Demers, David Read, and Kathie Tremblay, and members of the Coalition for Children's Safety and Serious Concerns Regarding the Proposed Topsfield Rail Trail Project (see sign in sheet for a complete list of attendees), and Widge Merrill of 23 Gail St.

Announcements: Chairman McArdle announced that the Board would go into executive session at the end of the meeting to discuss Dispatcher Union Contract and would not return to open session.

Selectmen Minutes: Selectman Gandt made the motion to accept the minutes as written of October 1, 2007; seconded by Selectman Carlson; so voted 4-0. Selectman Clark abstained. Selectman Gandt made the motion to accept the minutes as written of the October 1, 2007 Executive Session and to hold until all matters have been resolved; seconded by Selectman Jackson, so voted 4-0. Selectman Clark abstained.

APPOINTMENTS:

7:32PM Laura O'Connor approached the Board to express her interest in being appointed to the Recycling Committee. Ms. O'Connor noted her desire to serve on the Committee currently chaired by Bob Winship. She expressed an interest and said that Mr. Winship was looking to step down due to other Town commitments; however, he would stay on until Ms. O'Connor was more familiar with the committee's mission. Selectman Jackson thanked her for stepping forward and stated that he hoped she would be able to bring in some more people to assist in this important endeavor. Selectman Gandt explained that the State keeps close track on recycling activities and that Topsfield does very well with their recycling program. Selectman Jackson made a motion to appoint Laura O'Connor to the Recycling Committee effective immediately with the term to expire June 30, 2008. Selectman Clark seconded; so voted 5-0.

7:40PM Walter Harmer, Chairman of the Conservation Commission was asked to address the Board in regards to the Conservation Restriction at 120 High Street. Selectman Gandt gave an overview, stating that of the 60+ acre parcel of land*, the developer has agreed to grant a conservation restriction on about 37 acres of the property. Selectman Clark noted his concerns with the wording in Section II, A.1.d. regarding "cutting, removing, or otherwise destroying trees, grasses, or other vegetation" stating that the Commission does not have the sole authority with regard to such a restriction to upland open space not within a replication area or within 100

* The plan filed for the development specifies a total area of 70.807 acres. The deed specifies "about sixty (60) acres."

feet of a resource area. He noted the Planning Board's authority relative to the same. There was conversation regarding the maintenance and use of the paths with a difference of opinion. Mr. Harmer believes that by normal use of the path, cutting would not be necessary, while some members of the Board believe that the intent is to have the paths kept in tact for passive recreation with the need for occasional maintenance. Selectman Clark asked that several items in document be changed: Remove item "d." in section II, A.1. as discussed previously and amendments to the paragraph relative to paths that go through any replication areas on the property. Mr. Harmer agreed to discuss this further. Chairman McArdle stated that the apparent language differences between the Planning Board and the Conservation Commission should be resolved and asked that a meeting be arranged between Selectman Clark, Martha Morrison, Planning Board Chairman and Walter Harmer, Conservation Commission Chairman. Mr. Harmer and Mrs. Morrison agreed. Mr. Harmer noted that a walk through on the property would be helpful prior to the meeting. Joe Geller, Chairman of the Open Space Committee, spoke regarding his concerns about the open space area on this property. As an example, Mr. Geller noted what transcribed on the Coolidge Estate in reference to the network of trails for walking, and horseback riding. He stated that the Essex County Greenbelt holds the Conservation Restriction. Mr. Geller stated that he has walked the 120 High St property and believes that the paths should remain as they are today. He further noted that the property includes hunting "treestands" which indicate the property is not as pristine as the conservation restriction implies. Another concern expressed by Selectman Clark was that the document, as written, had no place for the Board of Selectmen to sign. Mr. Harmer said that would be changed. Still an outstanding issue is the matter of who will hold the restriction and be responsible for it. Lana Spillman, Conservation Commission Administrator, stated that Essex County Greenbelt was approached two years ago and said no. They do not accept restrictions without compensation. In this case, they quoted \$25,000. Mr. Harmer explained that they are trying to set up a Topsfield Land Trust, consisting of Topsfield residents as well as some out of town people that would be responsible for the Conservation Restriction. At the conclusion of the meeting, it was agreed that further discussions will be held.

8:09PM Rail Trail Response to the Coalition for Children's Safety and Serious Concerns Regarding the Proposed Topsfield Rail Trail Project, and DeAmario's July 30, 2007 letter.

- Joe Geller, chairman of Rail Trail Committee along with members Nancy Luther, Gregg Demers, Kathy Tremblay and David Read came forward. Joe Geller explained that they would be addressing the concerns raised at the Coalition's presentation to the Board on July 9, 2007 and those in the DeAmario letter.
- Mr. Geller began by stating that parts of the design of the project will be accomplished by professional personnel when funds become available through the grant process.
- Mr. Geller explained that the \$800,000 Federal grant that Mrs. Morgan had questioned is related to funds that U.S. Representative John Tierney has earmarked for the entire Border-to-Boston recreational trail project. The funds are being spent by the Mass Highway Department and, Mr. Geller doesn't expect Topsfield to receive any of those funds directly. In any event, Topsfield has not been asked to provide 10% matching funds.
- The Coalition questioned the Rail Trail membership and Mr. Geller spoke to that concern stating that the committee has over 100 years of residency in Topsfield. Most of the committee members have or have had children in the Topsfield school system. He also

noted that committee members represent over 70 years of participation on Town committees.

- Gregg Demers, an environmental engineer and licensed site professional, then addressed the Board on environmental issues raised by the Coalition. Mr. Demers stated that stone dust and gravel would be placed down on the trail to make it easier for travel, like that at Bradley Palmer State Park. There will be signage on the trail where it crosses Routes 97 and 1. The trail is to be 8 feet in width plus shoulders. Certain aspects of the project are before the Conservation Commission for approval because they are near wetlands. He noted that the railroad ties in phase 1 that the Coalition identified as leaching hazardous waste into the ground were on private property, belonging to Brian Woodland.
- Nancy Luther spoke to the Board about safety issues raised by the Coalition. Ms. Luther stated that the path from Washington St to Proctor School is perceived to be safer than nearby sidewalks and that parents presently use this path to walk their children to Proctor School. In regard to bicycles, the stone dust surface of the trail will lend itself better to wide tired recreational bicycles. Ms. Luther announced that the School Committee recently voted unanimously that the rail-trail would have no negative impact on school operation. However, they did request signage be placed both on the trail and the exit driveway warning of crossing traffic.
- Kathy Tremblay spoke of the wonderful opportunity the trail will provide for individuals to be outside and walk, or for use as an equestrian path. Ms. Tremblay spoke of being able to take a baby stroller on the path.
- Gregg Demers addressed the Board in reference to their community outreach. The Committee has been before the Board of Selectmen eight times, has written and distributed several hundred brochures, has participated in the Topsfield Fair Parade, has held an open forum at the Library, and has manned booths at the Strawberry Festival, at Topsfield's Town Expo and at the Topsfield Fair. In addition, local newspapers have published over 10 articles concerning the trail.
- David Read spoke of living on the recently developed Rail Trail in Marblehead and its positive influence on the community. He mentioned being skeptical about the trail in regards to noise, litter and safety. After the trail was built he noted seeing neighbors he hadn't seen for some time, that users were quiet, trash was never an issue, and that concerned citizens would pick up litter as they walked along.

Mr. Morgan asked to address the Board, not for debate but to request a time for the Coalition to address the Board again with their concerns. Ms. Wilder was asked to contact Mr. Morgan to arrange a time for the Coalition to meet with the Board. Many citizens in attendance wished to speak, however, Selectmen Gandt explained that the meeting was designed to hear the Rail Trail Committee's response to the Coalition's concerns. Selectmen Gandt went on to explain the difference between a "public hearing" and a "public meeting".

Mr. Geller then went on to explain the various phases of the project and funding. The Essex National Heritage grant in the amount of \$2,000 has been received and at this point may be used for design. This grant has an expiration date of June 2009. Selectman Clark noted that grants can always be applied for and received but not spent. Selectman Clark suggested that the Rail Trail project go on the Town's 2008 Ballot so the Town can weigh in on the trail before any grant funds are expended for construction purposes.

Conversation regarding notification of abutters for the clearing along Pemberton Road was next discussed. Mr. Geller explained that he had obtained permission from Conservation Commission and MBTA to clear a 4 foot wide path. It was requested that in the future, as a

courtesy, abutters be notified of clearing operations before work begins. It was noted that the trail south of Washington Street is now open to anyone to enjoy between dawn and dusk.

Mr. Geller had contracts that required votes from the Board.

Selectman Clark made a motion to approve a contract through the Department of Conservation and Recreation 2006 Grant in the amount of \$40,000 for the Chairman to sign, seconded by Selectman Jackson; so voted 5-0. Chairman McArdle stated that the grant funds are to be spent only with approval of the Board. Mr. Geller gave an explanation of the matching requirements. They could be cash, donated labor, equipment or in-kind. For example, the Topsfield Historical Society, will research, design, and construct a granite marker for the trail that is estimated will have a value of about \$5,000.

Selectman Clark made a motion to approve a contract with Mass Electric Company to allow a one-time mowing on their property to occur October 10-21, 2007, seconded by Selectman Gandt; so voted 5-0.

Selectman Clark made a motion to approve a letter of support to accompany an application to the Department of Conservation and Recreation for a 2007 grant in the amount of \$50,000 with the Chairman to sign, seconded by Selectman Gandt; so voted 5-0.

Selectman Clark made a motion to allow the Rail Trail Committee to file an application with the MBTA to make the Ipswich River Railroad Bridge and a cattle crossing safe to walk over by removing rails and install decking, seconded by Selectman Gandt; so voted 5-0.

OLD BUSINESS:

Calendar of BOS Meetings November 2007-June 2008: There was discussion of having the meetings move to bi-monthly. Selectman Jackson expressed his desire to be able to be a part of the budget process and attend the FinCom meetings that are held on Monday evenings.

Selectman Jackson made a motion to move the meetings to bi-monthly beginning in November 2007 through June 2008, seconded by Selectman Clark; so voted 5-0.

Widge and Leslie Merrill Liability Insurance Claim: Selectman Jackson spoke with Dave Bond, Superintendent of Highway, who readily admitted that, in preparation for paving the road, the surface of the road was below the level of the street drain. Under that condition, a thunderstorm resulted in flooding at 23 Gail St. Selectman Clark asked if any other situation had occurred and the Town was requested to pay replacement vs. actual cash value. None was known. Mr. Merrill feels the Town should pay the \$2,700 and that the Town is under insured. Selectman Clark, reluctantly, made a motion to deny the request for replacement value on damage for precedent reasons, seconded by Selectman Jackson; so voted 5-0.

NEW BUSINESS:

Joe VanLoon Fundraiser-One Day Liquor License: Selectman Jackson made a motion to approve the Boxford Police Association, a non-profit organization, a one day liquor license for an event on October 26, 2007 to be held at the Commons from 6-11PM to benefit Joe VanLoon, seconded by Selectman Gandt; so voted 5-0.

Town Administrator's Report:

A vote was requested for the Designer Selection Procedure in accordance with M.G.L. c.7 section 38A1/2-0, the so-called Designer Selection Law. The Board requested more time for review and postponed the vote.

A vote was requested to adopt a CORI policy in accordance with 803 CMR 6.00 as required by Chapter 149 of the Acts of 2004. The Board requested more time for review and postponed the vote.

Please see attached report.

Correspondence & Reports

Correspondence:

Surrey Lane Speeding and Reckless Drivers: Letter was received from Joseph Murphy of Surrey Lane expressing his concern regarding fast drivers and requesting the speed limit be lowered on his street. Police Chief has scheduled a meeting with residents to discuss the issue.

Municipal Coalition for Affordable Housing: Letter was received informing the towns that have joined promoting their seminar on October 26, 2007. Selectman Gandt expressed an interest in attending.

Verizon Personnel: Letter was received introducing Stanley Usovicz, Jr. as External Communication Director. Jill Reddish will continue as our video franchise operations manager.

Reports:

Conservation Commission: September's Monthly report was received, minutes of August 22, 2007, OoC for 76 Campmeeting Rd and CoC for 35 Stagecoach Rd were received.

Police Department: September's Monthly report was received.

Town Accountant: September's Monthly report was received

Cable TV Advisory Committee: Minutes of September 5, 2007 were received.

Web Site Committee: Minutes of July 21 and August 22, 2007 were received.

Fire Department: September's Monthly report was received.

Invitation:

Beverly Hospital at Danvers: Invitation was received for the opening of the new Medical and Day Surgery Center to be located at 480 Maple St., Danvers for 6-8PM on November 13, 2007.

Warrants: The Selectmen signed and approved warrants in the amount of **\$ 446,312.65** . The breakdown is as follows:

Warrant #FY08:

029 T	\$ 65,897.03
029S	\$ 204,885.86
030	\$175,529.78

At 10:08PM, Chairman McArdle entertained a motion to go into executive session to discuss the Dispatcher Union Contract; Selectman Gandt seconded motion. A yes vote was recorded for Selectmen Jackson, Selectmen Carlson, Selectmen Gandt, Selectmen Clark and Chairman McArdle. The Board would not return to regular session. Virginia Wilder and Donna Rich were present also.

Respectfully submitted,

Donna Rich, Secretary
Selectmen's Office

Approved as amended at the October 22 , 2007 Board of Selectmen meeting.